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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 MYRON HARGREAVES, CORTNEY  
8 HALVORSEN, BONNIE FREEMAN,  
and all others similarly situated,

9 Plaintiffs,

10 v.

11 ASSOCIATED CREDIT SERVICES,  
12 INC., a Washington corporation, and  
13 PAUL J. WASSON AND MONICA  
WASSON, individually and the marital  
community,

14 Defendants.

NO: 2:16-CV-0103-TOR

ORDER DENYING PLAINTIFFS'  
MOTION FOR RECONSIDERATION  
AND CERTIFICATION OF  
INTERLOCUTORY APPEAL

15 BEFORE THE COURT are Plaintiffs' Motion for Reconsideration and  
16 Alternatively, Certification of an Interlocutory Appeal, Motion to Continue Deadline  
17 for Filing Motion for Summary Judgment and Motion to Expedite each of these  
18 motions. ECF Nos. 86, 87, 88. The Court has reviewed the briefing, the record and  
19 files herein, and is fully informed. While these matters were noted for hearing  
20 without oral argument on October 25, 2017, in accordance with the Court's Jury Trial

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1   Scheduling Order, ECF No. 16 at 7, and the Local Rules, the Court resolves these  
2   matters without inviting a response from Defendants.

3                   **PLAINTIFFS’ MOTION FOR RECONSIDERATION**

4           Plaintiffs seek reconsideration of the Court’s denial of class certification arguing  
5   that the Court’s ruling on lack of numerosity is really a denial based on  
6   ascertainability, which is not a requirement for class certification. ECF No. 86 at 7.  
7   Indeed, Plaintiffs contend that “all necessary information can be readily determined  
8   by reference to documents in the court files already identified – specifically, the writs  
9   of garnishment, answers to writ, judgments on answer, and satisfactions.” *Id.* at 8.

10          By simply identifying the universe of potential class members to include every  
11   garnishment action filed by Defendants within the statute of limitations, Plaintiffs  
12   have not established numerosity in order to support class certification. By simply  
13   saying that the answer to the question of how many class members there are lies  
14   within the state court records, does not satisfy this Court’s obligation to conduct a  
15   “rigorous analysis” that the prerequisites of Rule 23(a) have been satisfied. *See Wal-*  
16   *Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350–51 (2011). “A party seeking class  
17   certification must affirmatively demonstrate his compliance with the Rule—that is, he  
18   must be prepared to prove that there are *in fact* sufficiently numerous parties,  
19   common questions of law or fact, etc.” *Id.* at 350 (emphasis in original).

1        Moreover, Plaintiffs are not “representative” of their proposed classes because  
2        their complaint only concerned collection of consumer debt by garnishment of bank  
3        accounts, not the universe of garnishment proceedings. They have no standing to  
4        assert more violations than those for which they were allegedly harmed. “[A] class  
5        representative must be part of the class and possess the same interest and suffer the  
6        same injury as the class members.” *Id.* at 348–49 (citations and internal quotation  
7        omitted).

8        To the extent class certification is committed to the discretion of the Court, the  
9        Court declines to certify under these circumstances. Moreover, the Court has now  
10       granted Defendants’ partial summary judgment, further making this case ineligible  
11       and impracticable for class certification. Plaintiffs’ Motion to Reconsider is denied.

#### 12       **MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL**

13       Alternatively, Plaintiffs seek certification for interlocutory appeal under 28  
14       U.S.C. § 1292(b). Plaintiffs are mistaken. Federal Rule of Civil Procedure 23(f)  
15       allows a litigant to seek an interlocutory appeal in the court of appeals. This Court  
16       has no role in granting permission for an appeal. *See Lambert v. Nutraceutical Corp.*,  
17       870 F.3d 1170 (9th Cir. 2017). The Court declines to bypass the Supreme Court’s  
18       rule that was the “product of careful calibration.” *Microsoft Corp. v. Baker*, 137  
19       S.Ct. 1702, 1709 (2017). Plaintiffs’ motion for certification of interlocutory appeal is  
20       denied.

1           **MOTION TO CONTINUE DEADLINE FOR SUMMARY JUDGMENT**

2           Plaintiffs seek an extension of the deadline to submit dispositive motions,  
3 reasoning “[n]ow that the Court has denied the Plaintiffs’ motion for class  
4 certification, summary judgment is appropriate and will likely dispose of the  
5 remaining issues in the case.” ECF No. 87 at 2. Moreover, the Court has resolved  
6 Defendants’ partial summary judgment motion, drastically changing the complexion  
7 of this case. For good cause shown, Plaintiffs’ motion is granted.

8           **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 9           1. Plaintiffs’ Motion to Expedite (ECF No. 88) is **GRANTED**.  
10          2. Plaintiffs’ Motion for Reconsideration and Alternatively, Certification of an  
11           Interlocutory Appeal (ECF No. 86) is **DENIED**.  
12          3. Plaintiffs’ Motion to Continue Deadline for Filing Motion for Summary  
13           Judgment (ECF No. 87) is **GRANTED**. **The parties are allowed until**  
14           **November 1, 2017 to file any remaining dispositive motions.**

15          The District Court Executive is directed to enter this Order and provide copies  
16 to the parties.

17          **DATED** October 20, 2017.



A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
Chief United States District Judge